

S.264

An act relating to technical corrections to civil and criminal procedure statutes

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 1 V.S.A. § 317(c)(41) is amended to read:

(41) documents reviewed by the Victim's Compensation Board for purposes of approving an application for compensation pursuant to 13 V.S.A. chapter 167, except as provided by 13 V.S.A. §§ ~~5360~~ 5358a(b) and 7043(c).

Sec. 2. 4 V.S.A. § 601 is amended to read:

§ 601. JUDICIAL NOMINATING BOARD CREATED; COMPOSITION

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(d) The Judicial Nominating Board shall adopt rules under 3 V.S.A. chapter 25 which shall establish criteria and standards for the nomination of ~~qualified~~ candidates for ~~justices~~ Justices of the Supreme ~~court, superior Court, Superior~~ judges, magistrates, the Chair of the Public Service Board, and members of the Public Service Board. The criteria and standards shall include such factors as integrity, legal knowledge and ability, judicial temperament, impartiality, health, experience, diligence, administrative and communicative skills, social consciousness, and public service. The application form shall not be included in the rules and may be developed and periodically revised at the discretion of the Board.

(e) A quorum of the Board shall consist of eight members.

(f) The ~~board~~ Board is authorized to use the staff and services of appropriate ~~state~~ State agencies and departments as necessary to conduct investigations of applicants. The Office of Legislative Council shall assist the Board for the purpose of rulemaking.

Sec. 3. 9 V.S.A. § 2292 is amended to read:

§ 2292. DEFENSES; LIABILITY AND PROTECTION OF TRANSFEREE

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(e) A transfer is not voidable under subdivision 2288(a)(2) or section 2289 of this title if the transfer results from:

(1) termination of a lease upon default by the debtor when the termination is pursuant to the lease and applicable law;

(2) enforcement of a security interest in compliance with 9A V.S.A. Article 9 ~~of Title 9A~~; or

(3) foreclosure of a mortgage in compliance with 12 V.S.A. subchapter 6 of chapter 163 or subchapter 1 of chapter 172 ~~of Title 12~~.

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Sec. 4. 12 V.S.A. § 2794 is amended to read:

§ 2794. EXECUTION UPON REAL ESTATE; HOMESTEAD A PART

When an execution is levied upon real estate of which the debtor's homestead is a part or upon that part of a homestead in excess of ~~\$75,000.00~~ \$125,000.00 in value, the location and boundaries of the homestead shall be

ascertained before the sale and set out in the manner provided for the levy of execution upon real estate whereof a homestead forms a part.

Sec. 5. 18 V.S.A. § 4474(b) is amended to read:

(b) Prior to acting on an application, the ~~department~~ Department shall obtain from the Vermont ~~criminal information center~~ Crime Information Center a Vermont criminal record, an out-of-state criminal record, and a criminal record from the Federal Bureau of Investigation for the applicant. ~~For purposes of this subdivision~~ As used in this subsection, “criminal record” means a record of whether the person has ever been convicted of a drug-related crime. Each applicant shall consent to release of criminal records to the ~~department~~ Department on forms ~~substantially similar to the release forms developed by the center pursuant to 20 V.S.A. § 2056e~~ Center. The ~~department~~ Department shall comply with all laws regulating the release of criminal history records and the protection of individual privacy. The Vermont ~~criminal information center~~ Crime Information Center shall send to the requester any record received pursuant to this section or inform the ~~department of public safety~~ Department of Public Safety that no record exists. If the ~~department~~ Department disapproves an application, the ~~department~~ Department shall promptly provide a copy of any record of convictions and pending criminal charges to the applicant and shall inform the applicant of the right to appeal the accuracy and completeness of the record pursuant to rules

adopted by the Vermont ~~criminal information center~~ Crime Information Center. No person shall confirm the existence or nonexistence of criminal record information to any person who would not be eligible to receive the information pursuant to this subchapter.

Sec. 6. 18 V.S.A. § 4474g(b) is amended to read:

(b) Prior to acting on an application for a registry identification card, the ~~department of public safety~~ Department of Public Safety shall obtain with respect to the applicant a Vermont criminal history record, an out-of-state criminal history record, and a criminal history record from the Federal Bureau of Investigation. Each applicant shall consent to the release of criminal history records to the ~~department~~ Department on forms ~~substantially similar to the release forms developed in accordance with 20 V.S.A. § 2056e by the Vermont~~ Crime Information Center.

Sec. 7. 20 V.S.A. § 2056e(a) is amended to read:

(a) The ~~department of buildings and general services~~ Department of Buildings and General Services shall obtain from the Vermont ~~criminal information center~~ Crime Information Center a Vermont criminal record, an out-of-state criminal record, and a record from the Federal Bureau of Investigation for any applicant for a ~~state~~ State security personnel position who has given written authorization, on a release form prescribed ~~under section 2056e of this chapter~~ by the Center, pursuant to the provisions of this

subchapter and the user's agreement filed by the ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services with the ~~center~~ Center. The user's agreement shall require the ~~department~~ Department to comply with all federal and ~~state~~ State statutes, rules, regulations, and policies regulating the release of criminal history records and the protection of individual privacy. The user's agreement shall be signed and kept current by the ~~commissioner~~ Commissioner. Release of interstate and Federal Bureau of Investigation criminal history records is subject to the rules and regulations of the Federal Bureau of Investigation's National Crime Information Center.

Sec. 8. 20 V.S.A. § 2056h is amended to read:

§ 2056h. DISSEMINATION OF CRIMINAL HISTORY RECORDS TO THE
DEPARTMENT OF FINANCIAL REGULATION

(a) The Department of Financial Regulation shall obtain from the Vermont ~~Criminal~~ Crime Information Center a Vermont criminal record, an out-of-state criminal record, and a record from the Federal Bureau of Investigation (FBI) for any applicant for a banking division examiner position who has given written authorization, on a release form prescribed ~~under section 2056e of this chapter~~ by the Center, pursuant to the provisions of this subchapter and the user's agreement filed by the Commissioner of Financial Regulation with the ~~center~~ Center. The user's agreement shall require the Department to comply with all federal and State statutes, rules, regulations, and policies regulating the

release of criminal history records, and the protection of individual privacy.

The user's agreement shall be signed and kept current by the Commissioner.

Release of interstate and ~~F.B.I.~~ FBI criminal history records is subject to the rules and regulations of the ~~F.B.I.'s~~ FBI's National Crime Information Center.

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Sec. 9. 27 V.S.A. § 145 is amended to read:

§ 145. EFFECT OF SPOUSE JOINING IN MORTGAGE

If the homestead or lands included therein are mortgaged by the joint deed of husband and wife, the joining of the wife or husband in the mortgage shall have no other effect than to bar her or his claim to the homestead as against the mortgage. If the mortgage includes lands other than the homestead, and the owner thereof dies, the other lands shall be first sold by the executor or administrator and applied on the mortgage and the residue only shall rest on the homestead. When the ~~probate division of the superior court~~ Probate Division of the Superior Court orders the whole to be sold, the balance of the proceeds after the payment of the mortgage, not exceeding ~~\$75,000.00~~ \$125,000.00 shall be under the control of the ~~court~~ Court as in case of the sale of a homestead under this chapter.

Sec. 10. 27 V.S.A. § 182 is amended to read:

§ 182. APPLICATION TO SUPERIOR COURT FOR RELIEF

When a dwelling house, outbuildings, and lands in which a homestead right exists, exceed in value ~~\$75,000.00~~, \$125,000.00 and a severance of the homestead would greatly depreciate the value of the residue of the premises or be of great inconvenience to the parties interested either in the residue or in the homestead, either party may apply for relief to the ~~superior court~~ Superior Court by a complaint setting forth the facts.

Sec. 11. 27 V.S.A. § 183 is amended to read:

§ 183. TRANSFER OR SALE IN LIEU OF SEVERANCE

When it appears upon hearing that such homestead cannot be occupied in severalty without great inconvenience to the parties interested therein or in such residue, the ~~court~~ Court may order such homestead to be transferred to such other parties and the payment of ~~\$75,000.00~~ \$125,000.00 to the owner thereof, or, at the option of the owner, ~~such court~~ the Court may order the parties to transfer such residue to him or her and order him or her thereupon to pay such other parties the value thereof to be fixed by the ~~court~~ Court. If the case requires, the ~~court~~ Court may order a sale of the whole premises and apportion the proceeds between the parties, and the ~~court~~ Court may make such orders in the premises as are equitable. If such homestead is sold, the ~~court~~

Court may control the investment of the proceeds of the sale in a new homestead or make such disposition thereof as equity requires.

Sec. 12. 4 V.S.A. § 1111 is added to read:

§ 1111. CIVIL VIOLATION; FAILURE TO PRODUCE IDENTIFICATION

(a) A law enforcement officer is authorized to detain a person if:

(1) the officer has reasonable grounds to believe the person has committed a civil violation of Title 7, 10, 13, 18, or 23; and

(2) the person refuses to identify himself or herself satisfactorily to the officer when requested by the officer.

(b) The person may be detained under this section only until the person identifies himself or herself satisfactorily to the officer or is properly identified. If the officer is unable to obtain the identification information, the person shall forthwith be brought before a judge in the Criminal Division of the Superior Court for that purpose. A person who refuses to identify himself or herself to the Court on request shall immediately and without service of an order on the person be subject to civil contempt proceedings pursuant to 12 V.S.A. § 122.

Sec. 13. 18 V.S.A. § 4230a(e) is amended to read:

~~(e)(1) Upon request by a law enforcement officer who reasonably suspects that a person has committed or is committing a violation of this section, the person shall give his or her name and address to the law enforcement officer~~

~~and shall produce a motor vehicle operator's license, an identification card, a passport, or another suitable form of identification.~~

(2) A law enforcement officer is authorized to detain a person if:

(A) the officer has reasonable grounds to believe the person has violated this section; and

(B) the person refuses to identify himself or herself satisfactorily to the officer when requested by the officer.

~~(3)~~(2) The person may be detained only until the person identifies himself or herself satisfactorily to the officer or is properly identified. If the officer is unable to obtain the identification information, the person shall forthwith be brought before a judge in the Criminal Division of the Superior Court for that purpose. A person who refuses to identify himself or herself to the Court on request shall immediately and without service of an order on the person be subject to civil contempt proceedings pursuant to 12 V.S.A. § 122. Sec. 14. 24 V.S.A. § 1983(b) is amended to read as follows:

(b) The person may be detained only until the person identifies himself or herself satisfactorily to the officer or is properly identified. If the officer is unable to obtain the identification information, the person shall forthwith be brought before a Criminal Division of the Superior Court judge for that purpose. A person who refuses to identify himself or herself to the Court on

request shall immediately and without service of an order on the person be subject to civil contempt proceedings pursuant to 12 V.S.A. § 122.

Sec. 15. 2008 Acts and Resolves No. 179, Sec. 22(a), as amended by 2010 Acts and Resolves No. 157, Sec. 14, by 2012 Acts and Resolves No. 104, Sec. 38, and by 2013 Acts and Resolves No. 41, Sec. 1a, is further amended to read:

(a) Secs. 11 and 12 ~~of this act~~ shall take effect on July 1, ~~2014~~ 2017.

Sec. 16. EFFECTIVE DATE

This act shall take effect on passage.